In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-505

JOHN WAYNE PRICE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Eastern District of Missouri, petitioner, a white man, was convicted of having violated 18 U.S.C. 245(b)(1)(B) by willfully injuring, intimidating or interfering with one George W. Smith, a black man, in order to prevent him from enjoying the benefit of a government facility (the recreational area at Lake Clearwater, Missouri). Petitioner was sentenced to six months' imprisonment to be followed by

two and one-half years' probation. The court of appeals affirmed (Pet. App. A).

Petitioner contends here, as he did below, that even if his assault upon Smith was racially motivated and occurred on a government facility, the evidence was insufficient to prove that he intended to prevent Smith from using the government facility. In an opinion upon which we rely, the court of appeals termed this contention "frivolous" (Pet. App. 2). As the court of appeals concluded after reviewing the record, there was "overwhelming evidence of defendant's intent to prevent Smith and his companions from using the federal recreational facilities" (Pet. App. 2).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

DAVID L. NORMAN,
Assistant Attorney General.

NOVEMBER 1972.

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